

1 APPEARANCES:

2 On behalf of the Plaintiff:

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7 On behalf of the Defendants:

8 THOMAS KAISER, ESQ.
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15 - - -

16 ALSO PRESENT:

17 Videographer
18 Shirley Brown
19 Maurice Brown
20 Leslie Hogan

21 - - -

INDEX

PAGES

CROSS-EXAMINATION BY

MR. MALIK

4

MR. KAISER

58

- - -

PLAINTIFF'S EXHIBITS MARKED

25

4

25A

47

- - -

OBJECTIONS BY

MR. KAISER

13, 31, 36, 37(2),

41, 42, 44

MR. BACEVICE

30, 37

- - -

1 OFFICER PEDRO VARGAS

2 a Defendant herein, called for examination by the
3 Plaintiff, under the Rules, having been first duly
4 sworn, as hereinafter certified, deposed and said as
5 follows:

6 CROSS-EXAMINATION

7 MR. MALIK: Before we get
8 started, I just want to take account of
9 who's here.

10 David Malik's here for the plaintiff.

11 MR. KAISER: Tom Kaiser and
12 Jack Bacevice for the defense.

13 MR. MALIK: And the Brown
14 family is here.

15 BY MR. MALIK:

16 Q. Officer, my name is David Malik. I have some
17 questions to ask you regarding your involvement
18 with Rodney Brown on December 31st, 2010.

19 If there's anything that I ask you that you
20 don't understand, feel free to ask me to rephrase
21 it; okay?

22 A. No problem.

23 (Thereupon, Plaintiff's Exhibit 25 to the
24 videotaped deposition of Officer Pedro
25 Vargas was marked for purposes of

1 identification).

2 Q. I provided you a copy of your statement. What is
3 that marked as, exhibit number on the bottom?

4 A. Twenty-five.

5 Q. Okay. Have you had the opportunity to take a
6 look at that?

7 A. Yes.

8 Q. There came a time when you were called to the
9 114th and Benham area, I believe in response to a
10 call from Officer Chapman; correct?

11 A. Yes.

12 Q. Can you tell me what happened once you got that
13 call?

14 A. We were on 142 and Kinsman. We headed straight
15 there to the area.

16 MR. MALIK: Hold on a
17 second, can you get him?

18 THE VIDEOGRAPHER: If you could
19 speak up a little more clearly.

20 A. We were on Kinsman and 142 and we headed straight
21 to that area when we heard him calling for
22 assistance.

23 Q. Where were you coming from?

24 A. We were just patrolling the area.

25 Q. When you headed to the area, did you head to the

1 area with lights and sirens?

2 A. Yes.

3 Q. And when you got to the area, where did you park?

4 A. 114 and Benham.

5 Q. And what direction were you headed, was the car
6 facing?

7 A. The car was facing -- when I got out of the car
8 the car was facing eastbound.

9 Q. Now, you were the passenger; correct?

10 A. Yes.

11 Q. And Officer Melendez was your partner; correct?

12 A. Correct.

13 Q. And he was the driver; correct?

14 A. Correct.

15 Q. And there came a time when you got out of the car
16 and Officer Melendez got out of the car, but
17 Officer Melendez passed you; correct?

18 A. Correct.

19 Q. Now, did he start running towards an area?

20 A. No.

21 Q. When he passed you, where was he going?

22 A. He was headed where Chapman and Ilain were.

23 Q. When you got out of the car, were you able to see
24 Chapman and Ilain?

25 A. Yes.

1 Q. About how far away from your car were they when
2 you saw them?

3 A. I would say -- I couldn't tell you how many
4 houses from 114 and Benham.

5 Q. Okay. In feet, though, could you tell me about
6 how far they were?

7 A. No, I wouldn't.

8 Q. Were they on 114th or were they on Benham?

9 A. They were on 114.

10 Q. And were they in somebody's yard or were they on
11 the street?

12 A. They were in the yard, sidewalk, exactly.

13 Q. They were on the sidewalk?

14 A. Sidewalk yard, you know.

15 Q. Was it a corner house?

16 A. No.

17 Q. Do you know how many houses from the corner they
18 were on 114th?

19 A. Couldn't recall.

20 Q. What side of the treat were they on?

21 A. They were on the east side.

22 Q. So did you park north of Benham?

23 A. I don't remember where he parked. I exited the
24 vehicle before he parked the car.

25 Q. Okay. So did he stop the vehicle, you got out

1 and then he went and parked the car?

2 A. Right.

3 Q. So you were the first person to see Chapman and
4 Ilain; correct?

5 A. Yes.

6 Q. Did you also see Mr. Brown?

7 A. Yes.

8 Q. When you saw Mr. Brown, what was his position?

9 A. His position was he was struggling and fighting
10 with Officer Chapman and Ilain.

11 Q. Was he lying down or was he standing up?

12 A. He was lying down.

13 Q. And did you see either officer with his taser
14 out?

15 A. No.

16 Q. Did you ever pull your taser?

17 A. Yes.

18 Q. And when you pulled your taser, what did you do?

19 A. I was -- I told Ilain and Chapman to step away
20 that I was going to taser him.

21 Q. What, if anything, did they say to you?

22 A. They told me, no, that they've already tried
23 tasering him and it wasn't working.

24 Q. And when you were going to taser Mr. Brown, about
25 how far away were you?

1 A. When they told me I wasn't in range yet. I was
2 still walking, making my way towards him and when
3 they told me, that's when I holstered it back.

4 Q. Were you walking or running?

5 A. Well, when I pulled out my taser, I started
6 walking because I wanted to get into close
7 distance, enough distance where it would work.
8 And I knew I wasn't at that time yet, so that's
9 why I told them to break off.

10 Q. As you were approaching the three of them --

11 A. Yes.

12 Q. -- you unholstered your taser?

13 A. Yes.

14 Q. And they see you, they say it's not working, put
15 it away?

16 A. Right.

17 Q. Then what did you do?

18 A. I holstered it and then I tried to assist.

19 Q. And about the time you holstered it, about how
20 far away were you from them?

21 A. I would say about 20 feet. Twenty, 25 feet.

22 Q. And is that the point when Officer Melendez came
23 by you?

24 A. Yes.

25 Q. So he ran by you; correct?

1 A. Right.

2 Q. Did he reach Mr. Brown and Officer Chapman and
3 Ilain before you got there?

4 A. Yes.

5 Q. And what did you see Officer Melendez doing?

6 A. I don't recall. I don't recall.

7 Q. When he got there were you communicating with
8 Officer Melendez?

9 A. I don't recall. I don't remember. I don't
10 really remember.

11 Q. Is there anything in your statement that
12 refreshes your memory about that?

13 A. I just remember trying to get, you know, placing
14 -- assisting Ilain and Chapman and all the other
15 officers that were there, trying to place him in
16 handcuffs. That's all I remember.

17 Q. As you were approaching the area, are there more
18 than Officer Ilain and Chapman there?

19 A. Civilians?

20 Q. No, officers.

21 A. No.

22 Q. But as you get up to the area, did officers
23 arrive, other officers arrive?

24 A. Yes, after we arrived. We were the first ones
25 there.

1 Q. About how long after you arrived did the other
2 officers arrive?

3 A. I don't recall how fast.

4 Q. Would it have been within -- are you able to tell
5 me it was within a minute or so?

6 A. Yes, it was within a minute. I would say it was
7 within a minute.

8 Q. How were you dressed that night?

9 A. In my official police uniform.

10 Q. Did you have a vest on?

11 A. Yes.

12 Q. And did you have a jacket on?

13 A. No -- I don't recall, I'm sorry. I don't recall
14 whether I had a jacket on. I know -- I don't
15 wear jackets so I know I did not have a jacket.

16 Q. You had a duty belt on?

17 A. Yes.

18 Q. What equipment did you have on your duty belt?

19 A. My taser.

20 Q. Taser?

21 A. My handcuffs, my ASP baton, my pepper spray, my
22 handgun and my two magazines.

23 Q. How many sets of handcuffs did you have?

24 A. I only carry one.

25 Q. Did you ever handcuff Mr. Brown?

1 A. I assisted.

2 Q. Who did you assist?

3 A. Refreshing from the statement, I assisted Blaine.

4 Q. So Officer Blaine shows up?

5 A. Yes.

6 Q. Within that minute or so?

7 A. Right.

8 Q. And --

9 A. I don't know if he was there within that minute
10 because I don't know how long it took us to
11 handcuff him.

12 Q. But Officer -- what was Officer Blaine -- what
13 were you doing and what was Officer Blaine doing
14 as you attempted --

15 A. We were trying to grab one of his arms to at
16 least put him in handcuffs.

17 Q. At the time you're doing that, is he on his
18 stomach.

19 A. Yes.

20 Q. Do you know how he got onto his stomach?

21 A. Don't remember.

22 Q. Was he on his stomach when you got there?

23 A. Yes.

24 Q. So as you're assisting with Officer Blaine, what
25 were Officer Ilain and Officer Chapman doing?

1 A. When we got on there, they jumped off. They were
2 tired.

3 Q. So then you and Officer Blaine were the only two
4 -- and there was Officer Melendez there?

5 A. M-hm.

6 Q. You were the only two, you and Blaine, attempting
7 to handcuff Mr. Brown at some period in time;
8 right?

9 A. We were not the only officers.

10 Q. Who else was there?

11 A. I couldn't tell you.

12 Q. When you were handcuffing Mr. Brown, how were you
13 positioned?

14 A. I don't recall. Just, I guess, I was in a
15 position to try and handcuff him, that's all I
16 can tell you.

17 Q. Well, does mean that you had a knee in his back?

18 A. Don't remember.

19 Q. What is the normal handcuffing procedure when
20 somebody is on the ground on their stomach?

21 MR. KAISER: Show an
22 objection, but you can answer, if you can.

23 A. There really -- I don't think there's a textbook
24 answer to that one.

25 Q. Well, you need to control the individual on the

1 ground so you can handcuff him; correct?

2 A. Correct, we were trying to control him.

3 Q. Right. And would that entail you being on top of
4 the suspect or having a knee in the back of the
5 suspect?

6 A. I don't know. I don't recall.

7 Q. But in terms of procedure for somebody who's on
8 the ground on their stomach, what have you done
9 in the past?

10 A. Try to get the best leverage on them, that's all
11 I try to do.

12 Q. But how to you do that?

13 A. I don't know. It's different every time.

14 Q. Well, you knew Mr. Brown needed to be handcuffed;
15 correct?

16 A. Correct.

17 Q. Whose handcuffs were used to handcuff him?

18 A. Don't remember.

19 Q. Did he have any handcuffs on him?

20 A. No.

21 Q. So did you have ahold of his arm?

22 A. Yes, we were trying to get ahold of his arm.

23 Q. Left arm or right arm, or both?

24 A. I don't recall, but upon reading the statement,
25 it says I was trying to grab the left arm.

1 Q. And when you go to grab somebody's left arm,
2 where do you grab them?

3 A. By the arm or the shoulder.

4 Q. Would you grab their wrist area?

5 A. Would try to, depending on how many people are
6 trying to grab the arm, whatever I could grab to
7 gain control of him.

8 Q. Officer Melendez has indicated that there were
9 other officers present as Mr. Brown was
10 attempting -- somebody was attempting to handcuff
11 Mr. Brown and you just indicated other officers
12 were present; correct?

13 A. Yes.

14 Q. Did you see Officer Morris there, Earl Morris?

15 A. Don't recall.

16 Q. Did you see Officer Januszcwski there?

17 A. Don't recall.

18 Q. Did you see Officer Marino there?

19 A. Don't recall.

20 Q. Did you see Officer Todd there?

21 A. Don't remember. Don't recall.

22 Q. Did you see Officer Harris there?

23 A. Don't recall.

24 Q. Did you indicate in your statement that any of
25 those officers were there?

1 A. No.

2 Q. Were you the one that was successful in
3 handcuffing Mr. Brown?

4 A. I wouldn't say I was successful. I would say I
5 tried assisting.

6 Q. And while you were present, was Mr. Brown
7 handcuffed?

8 A. Yes.

9 Q. As Mr. Brown was on the ground being handcuffed,
10 did he say anything?

11 A. Don't recall.

12 Q. Did he make any sounds?

13 A. I wasn't really paying attention to him.

14 Q. What were you paying attention to?

15 A. I was trying to get him -- I was trying to place
16 him in handcuffs. That was basically it, trying
17 to get him into -- try to get him in handcuffs
18 and try to make him secure.

19 Q. Okay. So he was eventually placed in handcuffs;
20 correct?

21 A. Correct.

22 Q. And then what happened?

23 A. I don't recall. I stepped away from him after
24 that.

25 Q. Did you help him to his feet?

1 A. No, I don't remember helping him on his feet.

2 Q. Now, in your statement on the first page, one of
3 the paragraphs, the last paragraph is cut off.

4 Do you know what the rest of the sentence is --

5 A. No.

6 Q. -- supposed to say?

7 A. No.

8 Q. Did you engage in any struggle with Mr. Brown?

9 A. No, other than trying to handcuff him.

10 Q. Well, do you remember actually trying to handcuff
11 him?

12 A. Yes, I remember trying to handcuff him.

13 Q. So what was that like?

14 What was that event like?

15 A. It was kind of hard. We were there for a pretty
16 -- I don't even know how long, to tell you the
17 truth, trying to place him in handcuffs. And it
18 took a lot of us to do it.

19 Q. Did you have a tape recorder, at all, with you?

20 A. No.

21 Q. Did you make any notes of that evening?

22 A. The only note I took of is remembering that
23 Chapman told me, don't taser him, they already
24 did that.

25 Q. And where did you make a note of that?

1 A. On paperwork and just remembering it.

2 Q. Did you fill out paperwork, other than the report
3 that you have in front of you?

4 A. No.

5 Q. Do you have a duty report that you have to fill
6 out as an officer?

7 A. Yes.

8 Q. Did you fill out a duty report for that day?

9 A. Yes.

10 Q. So once Mr. Brown is handcuffed, did you see
11 anybody get him to his feet?

12 A. I know he was assisted to his feet, but I didn't
13 pay attention to who was doing it.

14 Q. Did you assist him to his feet?

15 A. No.

16 Q. And then once he was on his feet, did he say
17 anything?

18 A. I don't recall.

19 Q. And then once he was on his feet, did you watch
20 somebody put him in the police car?

21 A. I observed some officers walking him to the
22 police car.

23 Q. Do you know who walked him to the police car?

24 A. No, I don't recall.

25 Q. Did you see him being put in the police car?

1 A. No, I didn't observe when they put him in the
2 police car itself.

3 Q. Now, were you following another police car as you
4 went to the scene?

5 A. There was another police car in front of us.

6 Q. And that was 4 Barney 25; correct?

7 A. Yeah, if I recall by reading the statement, yes.

8 Q. When Officer Melendez got to Mr. Brown, where did
9 Officer Melendez position himself?

10 A. I don't know.

11 Q. Now, did you attempt to control Mr. Brown?

12 A. No, I was trying to place him in handcuffs.

13 Q. Because your statement says, once I had my taser
14 holstered, I also assisted attempting to control
15 the subject. It says that in, like the second --

16 A. I was trying to control him while placing him in
17 handcuffs.

18 Q. What does that mean, you were trying to control
19 him?

20 A. Get his arms.

21 Q. You said, I was trying to control the suspect's
22 left hand with P.O. Blaine. We were trying to
23 get the suspect's left hand behind his back to
24 put handcuffs on him. So was Officer Blaine on
25 the same side as you?

1 A. I don't recall.

2 Q. When you gave your statement, did anybody ever
3 ask you that question, where Officer Blaine was?

4 A. No.

5 Q. Did anybody ever ask you whether or not you had
6 any of your body weight on Mr. Brown?

7 A. No.

8 Q. Did anybody ever ask you whether or not Mr. Brown
9 had said anything?

10 A. No.

11 Q. Anybody ask you whether or not Mr. Brown had been
12 making any noises?

13 A. No.

14 Q. Anybody ask you anything about Mr. Brown's
15 physical appearance or condition?

16 A. Yes.

17 Q. Who asked you?

18 A. The investigative unit -- internal affairs? I
19 think it was internal affairs that was there.

20 I'm not too sure. I don't know if it was
21 internal affairs or the investigative unit.

22 Q. What did they ask you?

23 A. They asked us if -- what was that last question
24 you just asked me?

25 Q. They ask you anything about Mr. Brown's physical

1 condition?

2 A. They asked us that, whether we thought he was on
3 something, on a drug or something.

4 Q. But did they ask you anything about his condition
5 after the arrest?

6 A. No.

7 Q. Or his condition after being handcuffed?

8 A. No.

9 Q. Well --

10 A. I don't recall.

11 Q. Well, it's not in your statement; right?

12 If they would have asked you that question it
13 would have been in your statement; correct?

14 A. M-hm.

15 Q. You have to answer verbally.

16 A. Yes.

17 Q. But they asked you if you were injured during the
18 incident; correct?

19 A. Correct.

20 Q. Now, you gave this statement on -- let's see, is
21 there a date to this statement?

22 MR. BACEVICE: David, can we
23 go off the record real quick.

24 MR. MALIK: Sure.

25 THE VIDEOGRAPHER: Off the

1 record.

2 (Thereupon, there was a discussion off the
3 record.)

4 THE VIDEOGRAPHER: On the record.

5 BY MR. MALIK:

6 Q. So we now have another version of your statement,
7 which has a paragraph that was omitted, and we'll
8 use this as Exhibit 25, I believe.

9 Let me go back to my previous question.

10 Investigators asked you if you were injured;
11 correct?

12 A. Correct.

13 Q. But they didn't ask you anything about whether or
14 not Mr. Brown showed any signs of distress;
15 correct?

16 A. No.

17 Q. No, that's correct; right?

18 A. Correct.

19 Q. And they didn't ask you whether or not he had
20 said anything to you; correct?

21 A. Correct.

22 Q. And they didn't ask you whether or not you had
23 heard him yelling or grunting in the car;
24 correct?

25 A. Correct.

1 Q. Did you hear him yelling or grunting in the car?

2 A. Don't recall.

3 Q. In fact, no investigator asked you anything
4 whatsoever about Mr. Brown's condition after the
5 arrest; correct?

6 A. No, investigators. Didn't speak to no one, other
7 than internal affairs and that was afterwards,
8 after the whole incident.

9 Q. And internal affairs didn't ask you; right?

10 A. No.

11 Q. Homicide didn't ask you; right?

12 A. I don't recall.

13 Q. But if they had asked you, you would expect it to
14 be in this report, Exhibit 25; correct?

15 A. Yes.

16 Q. Now, the date on this is January -- Exhibit 25 is
17 January 11th of 2011 at 1120 hours.

18 So there came a time, correct me if I'm wrong,
19 when you went down to homicide on January 11th of
20 2011; correct?

21 A. Correct.

22 Q. Eleven days after the incident; correct?

23 A. Correct.

24 Q. So between the incident and those 11 days, did
25 you talk to anybody about the incident?

1 A. No.

2 Q. Did you talk to your partner about it?

3 A. Yes, I did talk to Erik about it.

4 Q. Do you recall what you talked about?

5 A. No.

6 Q. Did anybody from internal affairs or homicide
7 talk to you about it before the 11th of January?

8 A. No.

9 Q. Now, you indicate, once the suspect was
10 handcuffed, I got up and there were several other
11 officers there who got the suspect up off the
12 ground and took him towards the railing. It was
13 like a wheelchair ramp on the front of the house,
14 to pat him down and check him for weapons. They
15 were not able to pat him down because he was
16 still fighting and kicking.

17 Now, who were those other officers who took
18 him over to the railing?

19 A. I don't recall.

20 Q. When you gave your statement, did anybody ask you
21 who those other officers were?

22 A. No.

23 Q. Again, you say, there were several other officers
24 there who were still trying to control the
25 suspect but the sort -- but they sort of had

1 control of him even though he was fighting and
2 kicking.

3 Did you see him fighting and kicking?

4 A. I seen him struggling and trying to get away from
5 them.

6 Q. This was on the wheelchair ramp; correct?

7 A. He was by the wheelchair ramp, he wasn't on the
8 wheelchair ramp.

9 Q. Did you see anybody use a taser on him that day?

10 A. No.

11 Q. Did you see any taser marks on him?

12 A. No.

13 Q. Did anybody talk -- other than Officer Chapman
14 saying a taser doesn't work, did anybody talk
15 about a taser?

16 A. No.

17 Q. Did you see anybody drive stun him?

18 A. No.

19 Q. And did he have his -- how was he dressed?

20 A. I don't remember.

21 Q. Here you say, I heard the suspect yelling from in
22 the back of the car. This went on for a minute
23 or two. There were other officers there
24 observing him.

25 So when you heard him yelling, were the doors

1 open or shut to the car?

2 A. I don't remember. I don't recall.

3 Q. And nobody asked you whether or not the doors
4 were open or shut from the car when you heard him
5 yelling; correct?

6 A. No, nobody asked me. I wasn't by him. I was
7 away from the car.

8 Q. So you were away from the car, but you still
9 heard him yelling; correct?

10 A. I heard him yelling from the car, yeah.

11 Q. What was he yelling?

12 A. I don't remember.

13 Q. Nobody asked you what he was yelling; did they?

14 A. No.

15 Q. No investigator, nobody from homicide, nobody
16 from internal affairs; correct?

17 A. No.

18 Q. Correct?

19 A. No, correct.

20 Q. Now, you indicate you saw EMS approaching, a
21 couple of officers got Mr. Brown out of the zone
22 car and sat him on the curb; correct?

23 A. Correct.

24 Q. Did you ever see Mr. Brown when he was taken out
25 of the car -- hold on one second.

1 Did you ever see anybody put Mr. Brown on his
2 knees when he got out of the car?

3 A. No.

4 Q. Did you see what Mr. Brown looked like when he
5 got out of the car?

6 A. No.

7 Q. Did you see Officer Melendez near the car?

8 A. I don't recall.

9 Q. Anybody ever ask you if you saw Officer Melendez
10 near the car?

11 A. Don't recall.

12 Q. Can you give me an idea of how this statement
13 that you generated was given?

14 A. What do you mean?

15 Q. Well, you went to homicide; right?

16 A. M-hm.

17 Q. Who signed this?

18 Who's on this that participated in helping
19 this statement come to fruition?

20 A. Sergeant -- I can't -- it's in cursive, I can't
21 -- Montaler or something like that.

22 Q. There's a lieutenant there; right?

23 A. Sergeant.

24 Q. That's a sergeant, Sergeant John something?

25 A. I think that's lieutenant.

1 Q. That's lieutenant; right?

2 Which lieutenant is that?

3 A. I have no idea which lieutenant that is.

4 Q. Well, you were there, you don't remember?

5 A. No, I don't know. I see that L-T in front of it,
6 but --

7 Q. And what is that number 1539?

8 A. Probably their badge.

9 Q. So whoever that is, that's officer 1539; right?

10 A. Right.

11 Q. Then it says relationship ID, do you know what
12 that says?

13 A. No. I see it, but I don't know what it is.

14 Q. Witness sergeant?

15 A. Montaler, I think.

16 Q. Sergeant Montaler, internal affairs; right?

17 A. Correct.

18 Q. There's a slash and another signature; right?

19 A. Yes.

20 Q. CPPA badge No. 3487, do you know who that was?

21 A. No.

22 Q. From the union?

23 A. I don't know who it is.

24 Q. And who was the statement taken by?

25 A. I have no idea.

1 Q. You can't read that name?

2 A. No.

3 Q. You can't read that number?

4 A. Nope.

5 Q. For your statement, what was the procedure?

6 Did somebody sit at a computer and ask you
7 questions?

8 A. After I did the complete statement, I typed up my
9 statement and then I was asked several questions
10 afterwards.

11 Q. You actually typed up a statement?

12 A. Yes, that's what's right here.

13 Q. Did you type up -- on Page 1 did you type up Page
14 1?

15 A. Yes, where it starts, we went to their location,
16 we were in the area of East 142.

17 Q. You typed that?

18 A. Yes, starting at A, all the way down to when the
19 question Q comes up, I typed up all that.

20 Q. On Page 2 you typed up everything from, we went?

21 A. We were in the area of East 142, from there on,
22 all the way down to -- prior to question, who was
23 the partner on this night.

24 Q. And then who typed up the remaining part?

25 A. The questions were already there. I mean, I

1 typed it up, but the questions were already
2 there, we just had to answer them.

3 Q. Did you type in the answers?

4 A. Yes.

5 Q. So you were presented with a set of questions?

6 A. Correct.

7 Q. That you just had to answer?

8 A. Correct. I mean, I don't know if those are the
9 questions. Them are the questions they gave us.

10 Q. But you were told that all -- and I don't want to
11 put words in your mouth -- what I'm getting is
12 that you were told that your report would consist
13 of what you wrote and then what those questions
14 were that somebody from internal affairs and
15 homicide asked you to answer; correct?

16 A. The questions, yes.

17 Q. And the questions that you were asked to answer
18 were pretty much yes and no answers; right?

19 A. Pretty much, or a little description.

20 Q. And, again, none of the questions, though, had to
21 do with Mr. Brown's condition after the arrest;
22 correct?

23 A. Correct.

24 MR. BACEVICE: Objection.

25 / / /

1 BY MR. MALIK:

2 Q. And none of them had to do with whether or not he
3 said he couldn't breathe --

4 MR. KAISER: Show an
5 objection.

6 Q. -- correct?

7 A. Can you repeat the question?

8 Q. Sure.

9 None of the questions even remotely had to do
10 with whether or not he could breathe; correct?

11 A. Correct.

12 Q. Did you know at the time that you gave this
13 statement that Mr. Brown had said he couldn't
14 breathe?

15 A. Don't recall hearing him say that.

16 Q. In conversations with Officer Melendez, Officer
17 Melendez didn't tell you that Mr. Brown said he
18 couldn't breathe?

19 A. No.

20 Q. About how long did it take you to complete this
21 statement?

22 A. I don't recall.

23 Q. Did you ever see any officer on December 31, 2010
24 have a taser drawn?

25 A. No.

1 Q. Did you ever see any marks, taser marks on Mr.
2 Brown's body?

3 A. No.

4 Q. Had you used a taser prior to December 31st of
5 2010?

6 A. No, I didn't have to then.

7 Q. But at anytime in your career had you used a
8 taser?

9 A. No, no.

10 Q. Had you been certified to use a taser?

11 A. Yes.

12 Q. Did you talk with Officer Rusnak?

13 A. During the incident, yes.

14 Q. And what did you talk about?

15 A. I don't recall what we talked about.

16 Q. And when you gave your statement, did anybody ask
17 you if you talked to Officer Rusnak?

18 A. No.

19 Q. Did anybody ask you if you talked to Officer
20 Melendez?

21 A. No.

22 Q. Did anybody ask if you talked to any other
23 officers?

24 A. No.

25 Q. Did anybody ask you if you talked to Mr. Brown?

1 A. No.

2 Q. Anybody ask if you talked to EMS?

3 A. No.

4 Q. Did you talk to EMS?

5 A. No.

6 Q. Because here in your statement you say, one of
7 the EMS medics said the suspect had a faint pulse
8 and they brought a gurney over and put the
9 suspect on it and put the suspect in the back of
10 the EMS wagon.

11 A. Correct, I heard them say that. I didn't talk to
12 them.

13 Q. Who did you hear him say it to?

14 A. He was just saying it in general.

15 Q. Do you know the name of the EMS person?

16 A. No.

17 Q. Did anybody ask you which EMS people were there?

18 A. No.

19 Q. Did you know who Mr. Brown -- did you know that
20 Brown had -- whether or not Mr. Brown had been
21 identified at the time of the incident as Mr.
22 Brown?

23 A. No.

24 Q. Did you ever know Mr. Brown's name on December
25 31st of 2010?

1 A. No.

2 Q. When did you discover that Rodney Brown was the
3 suspect?

4 A. After the incident, but I don't know when.

5 Q. When you gave your statement, did anybody show
6 you any pictures or photographs of the scene?

7 A. No.

8 Q. At the time you gave your statement, did you know
9 that Mr. Brown had died?

10 A. No -- when I made this statement?

11 Q. Yes, sir.

12 A. Yes.

13 Q. How'd you find out Mr. Brown had died?

14 A. I don't really recall.

15 Q. Did you see Officer Rusnak have any conversations
16 with Mr. Brown?

17 A. I think I observed him when he was trying to calm
18 Mr. Brown in the back of the car seat. That's
19 the only time I remember him conversating with
20 him.

21 Q. How do you know he was trying to calm Mr. Brown?

22 A. Because he was telling him to relax and -- to
23 relax in the backseat and calm down and breathe.

24 Q. And how did you know that?

25 Did you hear that?

1 A. That's what I seen him doing. I saw him in the
2 back telling him to calm down when he had both
3 doors open for him.

4 Q. So you had Patrol Officer Rusnak with both doors
5 open --

6 A. Officer Rusnak was already doing that. I didn't
7 have him doing that.

8 Q. He was telling Mr. Brown to calm down?

9 A. He wasn't telling him, he was asking him to.

10 Q. He was asking him to calm down?

11 A. Right.

12 Q. And what else was he asking him?

13 A. He was just asking him to calm down until EMS was
14 arriving, because I guess they had already called
15 for EMS.

16 Q. Did he ask Mr. Brown how he was feeling?

17 A. Mr. Brown was not responsive at that time. He
18 was not cooperating, so we couldn't ask him
19 nothing, really.

20 Q. Let's hold on for a minute. Because when you say
21 he wasn't responsive, to me it means he was
22 incapable of responding. But then you said he
23 wasn't cooperating, so which would be the best
24 choice of words?

25 A. He wasn't cooperating.

1 Q. But he was responding; correct?

2 A. What do you mean he was responding?

3 Q. Well, do you know if Mr. Brown understood what
4 Patrol Officer Rusnak was saying to him?

5 A. I don't know.

6 Q. Do you know if Mr. Brown was able to breathe okay
7 at that time?

8 A. I don't recall.

9 Q. Do you know if Mr. Brown was asking for help?

10 A. Don't recall.

11 Q. Do you know if Mr. Brown was saying he couldn't
12 breathe?

13 A. Don't recall.

14 Q. Okay. But what you heard is pretty much a
15 one-sided story, which is Patrol Officer Rusnak
16 saying calm down; correct?

17 MR. KAISER: Show an
18 objection.

19 BY MR. MALIK:

20 Q. That's your version of the events; correct?

21 A. I observed Rusnak telling him to calm down.

22 Q. You heard with your own ears Rusnak --

23 A. Yes.

24 Q. -- telling him to calm down?

25 A. Not calm down, but in some manner he was telling

1 him like that because I don't recall what the
2 conversation was. I do remember him telling him
3 to calm down because he was not cooperating in
4 the back.

5 Q. Well, how was he not cooperating in the back when
6 he was in the back by himself?

7 A. Because he was -- he was just being very -- how
8 would you say this? We were trying to calm him
9 down so that he would just relax, that's what we
10 were trying to do, so he could just relax until
11 EMS got there.

12 Q. Do you know the -- was he -- did he seem
13 agitated?

14 A. Yes, he seemed agitated.

15 Q. Do you know the reason he seemed agitated?

16 A. I have no idea.

17 MR. KAISER: Objection.

18 BY MR. MALIK:

19 Q. Do you know if the reason he was agitated was
20 because he couldn't breathe?

21 MR. BACEVICE: Objection.

22 MR. KAISER: Objection.

23 A. I have no idea.

24 Q. And you, yourself, did nothing to determine if
25 that was the reason; correct?

1 A. I couldn't really do nothing. I wasn't really
2 there. I just heard Rusnak say what he had to
3 say and that was it. I wasn't -- I was maybe 10,
4 15 feet away, but I heard him. I wouldn't say 10
5 or 15, I would say maybe 10 feet.

6 Q. And what side of the car were you on when you
7 heard it?

8 A. I was behind the car.

9 Q. You were behind the car?

10 A. Right, behind the trunk. Maybe 5 feet away from
11 the trunk.

12 Q. And when you were 5 feet away from the trunk, did
13 you also see Officer Melendez?

14 A. No. I don't recall. Not no, but I don't recall.
15 I don't recall seeing Officer Melendez.

16 Q. Now, after Officer Melendez attempted to assist
17 in the control of Mr. Brown, did you see Officer
18 Melendez after that point in time?

19 A. Don't recall.

20 Q. Did anybody ask you whether or not you saw
21 Officer Melendez when you gave your statement?

22 A. No.

23 Q. Did you ever see Mr. Brown being taken out of the
24 car and put on his knees?

25 A. No.

1 Q. Did you ever see Mr. Brown having a blank stare?

2 A. No.

3 Q. Did you ever see Mr. Brown refusing to stand?

4 A. Yes.

5 Q. When was that?

6 A. When we were -- when they were trying to pick him
7 up.

8 Q. Initially --

9 A. Yes.

10 Q. -- before they put him in the car; correct?

11 A. Before they were trying to pat him down.

12 Q. So you saw, though, Mr. Brown being taken out of
13 the car; right?

14 A. Yes.

15 Q. And what you saw was that they set him on the
16 curb; correct?

17 A. Correct.

18 Q. Did they set him on his butt on the curb?

19 A. I don't recall.

20 Q. Do you know who took him out of the car?

21 A. No.

22 Q. Did you see him being put on a gurney?

23 A. I don't recall if it's -- if that's what I saw in
24 the paper, then I don't recall.

25 Q. Did anybody ask you if you saw him being put on a

1 gurney?

2 A. Excuse me?

3 Q. Did anybody ask you if you saw him being put on a
4 gurney?

5 A. I don't recall.

6 Q. Did anybody ask you if you saw him being --
7 having the handcuffs taken off?

8 A. Don't remember that.

9 Q. At the time you gave your statement on the 11th,
10 was there any other officer there giving a
11 statement?

12 A. Yes.

13 Q. Who?

14 A. Several officers.

15 Q. And do you recall who that was?

16 A. I remember one of them was Melendez. Other than
17 that, I don't recall who the other officers were.

18 Q. So you were seated in homicide?

19 A. M-hm.

20 Q. And Officer Melendez was seated in homicide;
21 correct?

22 A. Correct.

23 Q. Were the same people that were taking Officer
24 Melendez's statement taking your statement?

25 A. I don't recall.

1 Q. And did you hear Officer Melendez give his
2 statement?

3 A. No.

4 Q. And did you ride -- did you go together to
5 homicide?

6 A. I don't recall.

7 Q. And did you leave together?

8 A. I don't recall. I don't recall.

9 Q. Were you working the day you gave your statement?

10 A. I don't recall.

11 Q. What was the mood like in the room when you were
12 giving your statement?

13 MR. KAISER: Objection.

14 A. I don't remember really.

15 Q. Well, you would remember if it was a very tense
16 moment; correct?

17 A. I really don't know, I mean.

18 Q. I mean, you're with your fellow officers; right?

19 You're there with your partner, you're there
20 with the union rep from the CPPA; correct?

21 A. Correct.

22 Q. It wasn't a threatening environment; was it?

23 A. No.

24 Q. It wasn't an environment that made you nervous at
25 all; was it?

1 A. No.

2 Q. And it wasn't like internal affairs environment
3 that you'd see on T.V. where everybody's afraid
4 of what internal affairs is going to do; correct?

5 MR. KAISER: Show an
6 objection.

7 BY MR. MALIK:

8 Q. Correct?

9 A. No.

10 Q. That's correct; right?

11 A. No, I didn't feel like it was that --

12 Q. You didn't feel like you were on the spot;
13 correct?

14 A. No.

15 Q. Did they have coffee in the room?

16 A. Don't remember.

17 Q. Did there come a time when you did any follow up
18 on the cause of death to Mr. Brown?

19 A. No.

20 Q. Did there come a time when you talked to any
21 other officers about Mr. Brown?

22 A. No.

23 Q. Did you miss any work after the incident as a
24 result of the incident?

25 A. No.

1 Q. About how much time would you say that you spent
2 at the scene?

3 A. From when we arrived, then we left to a call and
4 after that we came back and we were there
5 probably until twelve midnight, something like
6 that. We were prior -- we were gone before
7 midnight, but it was close to it.

8 Q. Why did you come back?

9 A. Because one of the bosses called us back.

10 Q. And do you know which boss?

11 A. I don't recall which sergeant it was.

12 Q. And do you know what the boss wanted?

13 A. He just wanted us to respond back to the
14 situation, to the scene.

15 Q. But for what reason?

16 A. He didn't give us a reason.

17 Q. And when you got to the scene, what did you do?

18 A. We just waited there until internal affairs --
19 not internal affairs, homicide showed up.

20 Q. Then when homicide showed you up, did you talk to
21 homicide?

22 A. No, they waited to get the whole situation setup.

23 Q. What does that mean?

24 A. They did what they had to do. I couldn't tell
25 you, I'm not homicide.

1 Q. I understand that, but Did you interact with
2 homicide, at all?

3 A. They came and took names and I think that was
4 about all I remember them doing.

5 Q. Did they ask you anything about Mr. Brown?

6 A. No.

7 Q. Do you recall who from homicide came?

8 A. Don't recall.

9 Q. Have you ever been part of a deadly force
10 investigation before?

11 A. No.

12 Q. Have you ever had your deposition taken before?

13 A. No.

14 Q. When did you graduate from the police academy?

15 A. 5-14-2001.

16 Q. And did you always work for Cleveland?

17 A. Yes.

18 Q. Have you ever been disciplined?

19 A. No.

20 Q. Have you ever had any complaints filed against
21 you?

22 A. Yes.

23 MR. KAISER: Show an
24 objection to complaints, but go ahead and
25 answer his questions.

1 BY MR. MALIK:

2 Q. And for what?

3 A. The one was for asking somebody to be quiet
4 several times and then after the third or fourth
5 time I had to tell them to shut up, so I got a
6 complaint for telling them to shut up.

7 Q. Anything else?

8 A. I don't recall the other two. I don't really
9 remember.

10 Q. What was the ruling on the complaints?

11 A. Nothing.

12 Q. Unfounded?

13 A. Yes, for all of them.

14 Q. Any military background?

15 A. No.

16 Q. Married?

17 A. No.

18 Q. Divorced?

19 A. No.

20 Q. Did you ever declare bankruptcy?

21 A. No.

22 Q. What percentage of arrests would you say have to
23 do with somebody resisting arrest?

24 A. For me, percentage under zero.

25 Q. Under zero?

1 A. Probably like .0001 or something like that. Who
2 knows.

3 Q. So you usually don't arrest people for resisting
4 arrest?

5 A. They usually don't resist.

6 Q. Are you on any medication?

7 A. No.

8 Q. Have you ever been on any medication for
9 emotional or mental disorder?

10 A. No.

11 Q. Did you have a knife with you that night?

12 A. No.

13 Q. Did you have anything other than your service
14 revolver?

15 MR. KAISER: It's been
16 asked and answered, unless I'm thinking of
17 an earlier deposition.

18 MR. MALIK: I think you're
19 thinking of the other one.

20 MR. KAISER: Am I?

21 MR. MALIK: I think so. I
22 don't know, they all run together.

23 MR. KAISER: Yes.

24 BY MR. MALIK:

25 Q. So did you have a weapon other than your service

1 revolver?

2 A. No.

3 MR. KAISER: They're not
4 revolvers, Dave.

5 MR. MALIK: Oh, yeah,
6 semi-automatics. I'm sorry.

7 I think I'm done. I just need like
8 one minute to just talk to my clients.

9 THE VIDEOGRAPHER: Off the
10 record.

11 (Thereupon, Plaintiff's Exhibit 25A to the
12 videotaped deposition of Officer Pedro
13 Vargas was marked for purposes of
14 identification).

15 THE VIDEOGRAPHER: On the record.

16 THE WITNESS: Can I go back
17 and retract to the last question?

18 MR. MALIK: No.

19 MR. KAISER: The witness
20 would like to make a correction to his
21 last answer, if you don't mind, Counsel.

22 Go ahead.

23 MR. MALIK: No, no, no,
24 no.

25 / / /

1 BY MR. MALIK:

2 Q. Let me ask you a question --

3 MR. KAISER: Do you want to
4 wait for the errata sheet or do you want
5 to give him the opportunity to make the
6 correction right now?

7 MR. MALIK: I don't know.
8 I haven't decided yet.

9 Q. So let me ask you this question, Officer Melendez
10 drew this Exhibit 26, which I think this was
11 Officer Melendez, which indicated that he was at
12 the head of Mr. Brown and Officer Chapman and
13 Officer Ilain were on either side. Do you recall
14 seeing Officer Melendez at the head?

15 A. No, I don't recall.

16 Q. And were you close up to Officer Melendez and
17 Officer Chapman and Officer --

18 A. I don't remember where they were at.

19 Q. But how close did you get to them that evening?

20 A. I mean, I was assisting them handcuff the male.

21 Q. So you were right there in that zone --

22 A. Yes.

23 Q. -- with Officer Melendez and Officer Chapman and
24 Officer Ilain; right?

25 A. Correct.

1 Q. And other officers that were there --

2 A. Right.

3 Q. -- right?

4 A. Correct. But Officer Ilain and Chapman had
5 stepped away. I don't know if they jumped in the
6 fight afterwards, but I know they stepped away
7 when we first arrived on scene.

8 Q. Did you go through any academy with any of the
9 officers on the scene?

10 A. I don't recall.

11 Q. Did you go through roll call that evening with
12 any of the officers on the scene?

13 A. Yes.

14 Q. Would all of the officers on the scene who worked
15 that shift been at the same roll call?

16 A. No.

17 Q. Do you remember who was at the roll call that was
18 on the scene that evening?

19 A. The only one I remember is my partner, and that
20 is because he was in the car with me.

21 Q. When you go through roll call, what do they do in
22 roll call?

23 A. They give us our plans for the day, our
24 assignments. I would not say plans, assignment.

25 Q. What was your assignment?

1 A. 4 Adam 28.

2 Q. so they give you a car; right?

3 A. Correct.

4 Q. Did do they tell you what to do?

5 A. No.

6 Q. So they don't tell you what areas to patrol;
7 correct?

8 A. 4 Adam 28 we already have a zone.

9 Q. And what zone is that?

10 A. Two-eight zone.

11 Q. And what is the geographical area of that zone?

12 A. It's the north -- not the north, the southeast
13 border of the Fourth District, which is
14 Lee/Harvard area, Lee/Miles area. That whole
15 area over there starting from in Woodmere.

16 Q. All right. Now what zone car were you in?

17 A. We were in zone car 429, but our call sign was 4
18 Adam 28.

19 Q. Do you know whose zone car he was put in?

20 A. No, I don't recall.

21 Q. Did you have a cell phone that day?

22 A. Don't recall.

23 Q. Do you have a cell phone?

24 A. Yes.

25 Q. And is the number that you had then the number

1 that you have now?

2 A. Yes.

3 Q. And what is that phone number?

4 A. 216-219 --

5 THE WITNESS: Answer that?

6 MR. KAISER: Yes, you've

7 got to answer it.

8 A. 219-0594.

9 Q. And what is Officer Melendez's cell phone number?

10 A. I don't know off the top of my head.

11 Q. Do you have your phone with you?

12 A. No.

13 Q. Did you talk to anybody from EMS?

14 A. No.

15 Q. Did you hear anybody from EMS say anything?

16 A. Yes.

17 Q. What did they say?

18 A. Whatever was said in my statement.

19 Q. Which was what?

20 Did you have your statement there?

21 That the suspect had a faint pulse?

22 A. M-hm.

23 Q. You actually heard the EMS guy say that?

24 A. I recall. That's what I have on the statement.

25 Q. Now, you had taser training; correct?

1 A. Yes.

2 Q. Have you deployed your taser during the course of
3 your duties as an officer?

4 A. No.

5 Q. Have you ever used your handgun --

6 A. No.

7 Q. -- in the course of your duties as an officer?

8 A. No.

9 Q. Tell me a little bit about your education.

10 Did you go to college, at all?

11 A. Yeah, but didn't graduate or nothing.

12 Q. Where did you go?

13 A. I went to Tri -- Cleveland State, then I went to
14 Tri-C.

15 Q. And what kind of courses did you take at
16 Cleveland State?

17 A. At the beginning I just took regular prep
18 classes, and then when I went to Tri-C I took a
19 couple of law classes for law enforcement.

20 Q. Did you grow up in the Cleveland area?

21 A. Yes.

22 Q. In what neighborhood?

23 A. I grew up in Tremont area and then after the
24 Tremont area I moved over by the Clark/Fulton
25 area.

1 Q. Did you use your microphone, at all, once you got
2 to the scene?

3 A. No.

4 Q. Make any calls?

5 A. No.

6 Q. Did you use your car radio at the scene to make
7 any calls?

8 A. No.

9 Q. Did you graduate from a high school in Cleveland?

10 A. Yes.

11 Q. Which one?

12 A. South High.

13 Q. Were you ever interviewed by anybody, other than
14 internal affairs or homicide, about this case?

15 A. No.

16 Q. When you were at the scene, did you happen to see
17 any evidence on the ground?

18 A. Yes, they did point out where, I think, the knife
19 was.

20 Q. Other than that, where did you see the knife when
21 you saw it?

22 A. I don't recall. They pointed it, but I don't
23 recall where it was.

24 Q. Who pointed it out?

25 A. Ilain.

1 Q. And did you look at it?

2 A. Yes, I went by it and looked at it.

3 Q. What did it look like?

4 A. A knife.

5 Q. I mean, you could see the blade on it and
6 everything?

7 A. I don't know whether it was -- I don't remember
8 whether it was in the -- still in the sheath or
9 not.

10 Q. Did you see the taser wire on the ground?

11 A. I don't recall.

12 Q. When you got back to the scene after you went on
13 your run with Officer Melendez, were there any
14 evidence tags on the ground identifying where
15 evidence was?

16 A. I don't recall.

17 Q. Do you know what I'm talking about, those yellow
18 numbered things?

19 A. Yes.

20 Q. You don't recall seeing those?

21 A. No, I don't.

22 Q. Did you see the area taped off?

23 A. I don't -- I don't remember.

24 Q. Did you tape off any area, at all?

25 A. I don't remember.

1 Q. Did you read Officer Melendez's statement?

2 A. No.

3 Q. Did he read your statement?

4 A. No.

5 Q. Did you read anybody else's statement?

6 A. No.

7 Q. Have you seen the coroner's report in this case?

8 A. No.

9 Q. Did you participate in anything having to do with
10 the tow of Mr. Brown's car?

11 A. No.

12 Q. Did you look inside Mr. Brown's car?

13 A. No.

14 Q. Did you see Mr. Brown's car when you got to the
15 scene?

16 A. I don't recall. It wasn't on the area where we
17 were on, where we arrested him at.

18 Q. So, in your mind, if somebody's headlights are
19 off, does that give you probable cause to stop
20 them?

21 A. Yes.

22 Q. Have you worked with Patrol Officer Ilain before?

23 A. No.

24 Q. Have you worked with Patrol Officer Chapman
25 before?

1 A. Yes.

2 Q. And were you partners before?

3 A. I trained him.

4 Q. So you were a field training officer?

5 A. Yes.

6 THE VIDEOGRAPHER: Excuse me.

7 Thank you.

8 BY MR. MALIK:

9 Q. What are the responsibilities of a field training
10 officer?

11 A. It's too general.

12 Make sure he's doing certain things right.

13 Q. So you trained new people on the job; correct?

14 A. I did it for two years.

15 THE VIDEOGRAPHER: Excuse me, off
16 the record to change tapes, 30 seconds.
17 (Thereupon, there was a brief recess.)

18 THE VIDEOGRAPHER: On the
19 record.

20 BY MR. MALIK:

21 Q. Does everybody get to be a field training
22 officer?

23 A. No.

24 Q. Is it something that you have to apply for?

25 A. Yes.

1 Q. So you applied to be a field training officer;
2 correct?

3 A. M-hm.

4 Q. And what year did you apply to do that?

5 A. I don't recall what year it was.

6 Q. And did you have to go through a field training
7 officer course?

8 A. Yes.

9 Q. And how long is that course?

10 A. I think it's a week, if I remember right.

11 Q. And are there materials for that?

12 A. Yeah, there is some paperwork.

13 Q. So when you get to be a field training officer,
14 you teach people how to be a patrol officer in a
15 specific district; correct?

16 A. No, you just basically make sure that they're
17 doing everything right. How to fill out a duty,
18 how to make a report, how to answer radio.

19 Q. Anything else?

20 A. How to write a ticket.

21 Q. Now, officers have discretion when to write
22 tickets and when not to write tickets; correct?

23 A. Yes. I would take it as that, yes.

24 Q. I mean, you could stop somebody for a headlight
25 not being on one day and not write them a ticket

1 and stop them on another day and write a ticket,
2 depends on your discretion; correct?

3 A. Correct.

4 Q. You can have the opportunity to give people
5 warnings; correct?

6 A. Correct.

7 MR. MALIK: I have nothing
8 further.

9 - - -

10 BY MR. KAISER:

11 Q. Officer Vargas, just before our first break Mr.
12 Malik asked you if you were equipped with any
13 weapons, other than your revolver; do you
14 remember that question?

15 A. Yes, I do.

16 Q. And I chided him for confusing a Glock with a
17 revolver, but the ultimate answer to the question
18 you gave was, no, you had no other weapons; is
19 that right?

20 A. Yes.

21 Q. And what did you have in mind Mr. Malik was
22 asking about weapons?

23 What kinds of things were you thinking about?

24 A. Firearms only.

25 Q. And point of fact, you did have other weapons on

1 your person?

2 A. Yes.

3 Q. Such as?

4 A. My taser, my ASP baton, my pepper spray.

5 MR. KAISER: Okay, thanks.

6 I just wanted to straighten that out.

7 THE VIDEOGRAPHER: End of video
8 record.

9 The witness does have the right to
10 review a transcript when it's typed and/or
11 review the video of his testimony or waive
12 that right.

13 MR. KAISER: He'll review.

14 THE VIDEOGRAPHER: Thank you.

15 MR. MALIK: Thank you,
16 Officer.

17 - - -

18 (DEPOSITION CONCLUDED.)

19 - - -

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21

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23 _____
 OFFICER PEDRO VARGAS (Date)

24

25 - - -

I have read the foregoing transcript from Page 1
through 59 and note the following corrections:

PAGE	LINE	REQUESTED CHANGE
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Officer Pedro Vargas

Subscribed and sworn to before me this ____ day
of _____, 2012.

Notary Public

My commission expires: _____.

C E R T I F I C A T E

STATE OF OHIO,)
) SS:
COUNTY OF CUYAHOGA.)

I, Lori A. Morris, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the within-named witness, OFFICER PEDRO VARGAS, was by me, before the giving of his/her deposition, first duly sworn to testify the truth, the whole truth and nothing but the truth, that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulations of counsel, that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney or financially interested in this action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this 28th day of June, 2012.

Lori A. Morris, Notary Public, State of Ohio.
1360 West Ninth Street, Cleveland, Ohio 44113
My Commission expires April 21, 2017.